

**EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

CASE NO. 4:09-CV-198
(Judge Schneider/Judge Mazzant)

Having received the report of the United States Magistrate Judge, and no objections thereto having been timely filed, this Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge's report as the findings and conclusions of the Court.

It is, therefore, **ORDERED** that

1. The motion to dismiss as to Plaintiff's claims against Chief Bradley in her official capacity is **GRANTED**.
2. The motion to dismiss as to Plaintiff's claims against Chief Bradley in her individual or personal capacity is **GRANTED**.
3. The motion to dismiss as to Plaintiff's claim for excessive force against officers Tyson, Hubbert and Crow is **DENIED**.
4. The motion to dismiss as to Plaintiff's claim for failure to intervene against officers Tyson, Hubbert and Crow is **DENIED**.
5. The motion to dismiss as to Plaintiff's claims for unlawful seizure/improper arrest against officers Tyson, Hubbert and Crow is **GRANTED**.
6. The motion to dismiss as to Plaintiff's § 1983 claims for improper training, supervision, discipline, and retention against the City of Corinth is **DENIED**.
7. The motion to dismiss as to Plaintiff's Texas Tort Claims Act claims against officers Tyson, Hubbert and Crow is **GRANTED**.
8. The motion to dismiss as to Plaintiff's Texas Tort Claims Act claims against the City of Corinth is **GRANTED**.
9. The motion to dismiss as to Plaintiff's § 1983 claims for improper training, supervision, discipline, and retention against the City of Corinth for punitive or exemplary damages is **GRANTED**.
10. The motion to dismiss as to Plaintiff's state-law claims against the City of Corinth for punitive or exemplary damages is **GRANTED**.

The following causes of action remain:

1. Plaintiff's claim for excessive force against officers Tyson, Hubbert and Crow.
2. Plaintiff's claim for failure to intervene against officers Tyson, Hubbert and Crow.
3. Plaintiff's § 1983 claims of improper training, supervision, discipline, and retention against the City of Corinth.

IT IS SO ORDERED.

SIGNED this 17th day of November, 2009.

A handwritten signature in black ink, reading "Michael H. Schneider", written over a horizontal line.

MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE